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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA

3:16-CR-00051-BR

v.

AMMON BUNDY, et al.

**JOINT STATUS REPORT
REGARDING DISCOVERY**

Defendants.

Pursuant to the Court's April 11, 2016, Order (ECF No. 389) and its April 15, 2016, Order (ECF No. 422), attorneys for the government have conferred with the Defendants' Discovery Committee. The parties offer the following:

A. Government's Discovery Production

1. Discovery Produced to Date

On Friday, May 13, 2016, the government produced Volumes 24 through 26. On Monday, May 16, 2016, the government produced Volumes 27 through 34. These materials included photographs, aerial surveillance videos, jail calls, surveillance video, local reports, copies

of evidence and FBI reports. The government has now produced materials from the FBI, ATF, BLM, U.S. Fish and Wildlife Service, Oregon State Police, Harney County Sheriff's Office, Deschutes County Sheriff's Office, and the other state and local agencies that assisted in the investigation. To date, the government has produced 43,712 Bates pages and 418,709 files. These materials total 1.81 terabytes of data.

On Wednesday, May 18, 2016, the government produced Volume 35 to Ms. Horvath for distribution to the defendants facing charges in the Districts of Nevada and Oregon: Ammon Bundy, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Peter Santilli, and Blaine Cooper. Volume 35 consists of search warrants, toll records, FBI reports, photos, videos, audio recordings, YouTube Videos, aerial surveillance video, and documents related to the 2014 standoff in Bunkerville, Nevada. These materials were produced by the U.S. Attorney's Office in the District of Nevada to these same defendants in the Nevada cases. Volume 35 is roughly 1.4 terabytes of data.

The government submits that it has now substantially complied with its discovery obligations.

2. Government's Continuing Discovery Obligations

The government has a continuing obligation to produce discovery. Fed. R. Crim. P. 16(c). The government is primarily focused on the following areas of potentially discoverable information:

a. District of Nevada materials- As set forth above, the government has disclosed materials that have been produced in the Nevada prosecution to defendants facing prosecution in Nevada and Oregon. The government will continue to review these materials to determine if any

of the information should be disclosed to the remaining defendants. As additional materials are produced in the Nevada prosecution, the government will determine if they are subject to production in this case.

b. Other Investigations- The government has produced all discoverable information in the files of the FBI in Oregon with the exception of certain sensitive materials described below. The government will continue to search for and review any materials that were generated by FBI field offices and other federal agencies outside of this investigation that may be discoverable in this case.

c. Sensitive Materials- Information regarding confidential sources has not been produced. Due to the highly sensitive nature of this information, the government needs additional time to review this material, determine its discoverability and take measures to ensure the safety of the government's witnesses.

d. E-mail messages- In light of defense requests for e-mail communications, the government is in the process of reviewing a large volume of e-mails. At this time, the government has no reason to believe that these materials are discoverable.

e. Pending Forensic Searches- The government has obtained and produced search warrants for social media accounts and electronic devices. The FBI is currently reviewing these materials to determine if they contain relevant evidence. The government has provided the social media account holders with copies of the data seized pursuant to the warrants. The government has also offered to make available to defendants images of their electronic devices before the forensic review is finished. When the government completes its search of these materials, it will produce forensic reports to all defendants documenting any items seized. The government

estimates that reports of the forensic searches of the digital devices will be produced by the end of this month, while reports of the social media accounts will be available by June 15, 2016.

f. Deschutes County Major Crimes Investigation- The Deschutes County Major Crimes Team was the lead investigative agency for the officer involved shooting of Robert “Lavoy” Finicum. Deschutes County publically released redacted reports of that investigation in March of 2016. To ensure all had access to the materials released by Deschutes County, these reports have been produced as discovery in this prosecution. The U.S. Department of Justice, Office of Inspector General (DOJ-OIG) has an ongoing investigation related to the shooting. The government has not released information regarding this ongoing investigation because it is not discoverable in this case.

g. Other- The government will continue to search for and produce discoverable information. As is common in complex criminal cases, additional information will be uncovered as the case proceeds to trial. The government will work with the defense on individual discovery requests and will produce any discoverable information as quickly as possible.

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B. Defendant Exception to the Joint Status Report

Tom Coan, on behalf of Peter Santilli, has requested a copy of evidence related to a YouTube video. The evidence is a screen shot from YouTube that was logged into evidence by an agent in Cincinnati, Ohio. The government is working with the agent in Ohio to produce a copy of the evidence in this case and expects that it will be available by the end of the week.

Dated this 18th day of May 2016.

Respectfully submitted,

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